



LEGISLATIVE FINANCE COMMITTEE

58TH Montana Legislature

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MINUTES

December 5, 2003
Room 102, State Capitol
Helena, Montana

ROLL CALL

Rep. Dave Lewis
Rep. John Brueggeman
Rep. Rosalie Buzzas
Rep. Gary Forrester
Rep. Dave Kasten
Rep. Monica Lindeen
Sen. Keith Bales
Sen. Rick Laible
Sen. Emily Stonington
Sen. Jon Tester
Sen. Joe Tropila
Sen. Tom Zook
Clayton Schenck, Legislative Fiscal Analyst
Cindy Campbell, Committee Secretary

Call to Order (Tape 1A-010)

The 187th meeting of the Legislative Finance Committee (LFC) was called to order at 8:35 a.m. by Representative Gary Forrester, Chair, on Friday, December 5, 2003. The meeting was held in Hearing Room 102 of the State Capitol, Helena, Montana.

Clayton Schenck introduced two new employees, Alan Peura and Harry Freebourn, recently hired to fill the two vacant analyst positions in the Legislative Fiscal Division (LFD).

1. Approval of Minutes for October 3, 2003 (Tape 1A-0001)

Senator Tropila moved the minutes of the October 3, 2003 meeting be approved as presented.

VOTE: The motion carried unanimously.

2. 2005 Biennium Budget Spending “Pressure Points” (Tape 1A-012)

Taryn Purdy, Principal Fiscal Analyst, presented a report on the 2005 biennium budget spending “pressure points”. (Exhibit 1) The purpose of this report is to highlight major expenditure areas to alert the LFC to potential cost overruns or areas of concern. Ms. Purdy told the committee this item will be an ongoing agenda item until the next legislative session.

The three areas identified in the report are K-12 education, corrections, and human services. Ms. Purdy reported that LFD anticipates K-12 education will require an \$8.8 million supplemental, and there are concerns about current budget pressures for both corrections and human services. She explained in detail the reasons for the anticipated supplemental in K-12 education and the current budget pressures for corrections and human services.

The report states “Due to reductions made to avoid general fund cost overruns in the 2003 biennium and maintained in the 2005 biennium, the state has informed the federal government that it will not meet the federal mental health block grant MOE.” In regard to this statement, **Representative Buzzas** asked “How much below the necessary MOE level is the state?” Lois Steinbeck, Senior Fiscal Analyst, said she did not have this information at this time, but would contact the department and try to get that information.

Senator Zook asked what causes patients to be decertified as Medicaid eligible. Pat Gervais, Senior Fiscal Analyst, explained Medicaid certification and said that there have been changes in how Medicaid interprets the criteria. **Senator Bales** asked if there was any effort on the part of the states to address this issue with the federal government and Mrs. Gervais responded affirmatively, saying that there is a group of states negotiating with the U.S. Department of Health and Human Services in an attempt to get this reversed.

Curt Nichols, Assistant Director for the Office of Budget and Program Planning (OBPP), provided comments on behalf of the executive. He said they were aware of the anticipated supplemental for K-12 education.

3. Wildfire Suppression Issues (Tape 1A-330)

2003 Fire Costs Update - Gary Hamel, Senior Fiscal Analyst, presented an update on wildfire suppression costs. (Exhibit 2) His report included: 1) an updated Department of Natural Resources and Conservation (DNRC) fire cost estimate table; 2) a discussion on the use of the average fire costs as a planning tool to estimate impacts on state resources; 3) updates on FEMA, reimbursable costs, Forest Service bill, Federal Jobs and Growth Tax Relief Reconciliation Act (FJGTRA), California fires, and the fire cost study group; and 4) a conclusion. Mr. Hamel told the LFC that he is attending the meetings of the fire cost study group, which had its first meeting October 8, 2003. This meeting primarily consisted of an overview of the current funding structure and some initial discussions of issues associated with funding. The next meeting of that group will be held on December 9, 2003, and Mr. Hamel will provide updates to the LFC as issues emerge.

In conclusion, Mr. Hamel reported that without FJGTRA and FEMA grant funding in fiscal 2004, the State of Montana would be faced with a fire bill estimated to be \$66.8 million. **Senator Laible** asked for a breakdown of the total fire costs after the final bill is received. Mr. Hamel said he would provide this information at the next LFC meeting. **Representative Lewis** commented on a recent article in the Bozeman Chronicle about the costs of providing food for the firefighters. He asked if DNRC could choose which costs to pay. Bud Clinch, Director of DNRC, responded that they do have that discretion and are very diligent in their negotiations regarding what costs will be funded.

Representative Lindeen asked Clayton Schenck about the Legislative Audit Committee's actions in regard to the LFC's request to include a performance audit on wild fire costs. Mr. Schenck said he relayed the request to Scott Seacat, Director of Legislative Audit Division, and the Legislative Audit Committee will meet on December 19, 2003, and will consider that request.

Bud Clinch offered comments on behalf of DNRC, generally concurring with Mr. Hamel's report. He clarified details on two important issues: 1) the Forest Service bill; and 2) status of FEMA reimbursements. Mr. Clinch clarified that the "Forest Service bill" is for money the state

owes the Interagency Coordination Center for providing resources to the state. He stressed “it is not necessarily U.S. Forest Service (USFS) personnel in green trucks.” Mr. Clinch further explained how the process works through the Interagency Coordination Center. In regard to the status of the FEMA reimbursements, he said there is no indication that FEMA reimbursements will not be available in the future. Mr. Clinch responded to questions from LFC members regarding the advantages of DNRC’s strategy of “early suppression”, which is not the strategy of the USFS. He explained the differences between fires on state lands and federal lands.

Senator Tropila asked if there was any progress on negotiations with insurance companies to pay for fire costs on private property. Mr. Clinch said the state of Colorado is actively engaged in taking action to force insurance companies to get involved in paying fire costs. He also said staff from DNRC is negotiating with the insurance industry for additional revenue.

4. Federal Jobs and Growth Tax Relief Reconciliation Act Funds (Tape 1B-233)

Taryn Purdy presented a report on the status of the state fiscal relief from the FJGTRA. (Exhibit 3) Ms. Purdy gave a brief recap and reported that \$27.1 million of the JFGTRA has been expended for fire costs in fiscal 2004. The Governor expressed her intention to obligate \$11.1 million of these funds for various purposes, with any remaining funds reserved for fiscal 2005 fire costs. Ms. Purdy reported on the details of specific adjustments made by the executive in human services, K-12 education, administration, the Montana University System, defense of bankruptcy case and miscellaneous allocations.

Joe Lamson from the Office of Public Instruction (OPI) responded to a question from **Representative Lindeen** regarding the allocation for grants to schools for early reading programs.

Larry Fasbender, Deputy Director, Department of Justice (DOJ), addressed the allocation for the Northwestern Energy bankruptcy case. He provided an update on the status of the case and distributed copies of the Memorandum of Understanding between the Office of the Governor, Attorney General, Montana Public Service Commission, and Montana Consumer Counsel. (Exhibit 4) He answered questions from committee members and said he would provide a full

report at the next meeting of the LFC.

5. Montana Economic Analysis Study (Tape 2A-028)

Sheila Stearns, Commissioner of Higher Education, reported on the status of the Montana Economic Analysis Study and the Board of Regents decision to support this study. A copy of her memorandum, dated September 15, 2003, to the Interested Partners in Montana Economic Development was included in the LFC books with the Committee Business packet. (See Exhibit 20) At the request of the Board of Regents and the Office of Economic Opportunity, Ms. Stearns asked for support from the LFC, which at this time would be strictly some additional LFD staff time. She responded to questions from LFC members. **Representative Forrester** asked for clarification of “additional staff time”. Ms. Stearns responded that they would ask for about three to four hours in December 2003, and then approximately 10 hours a month from January through May 2004. She also clarified that the requested staff time would be strictly resource related.

6. General Fund/Federal Funds Update: 2005 Biennium Projected (Tape 2A-320)

Terry Johnson, Principal Fiscal Analyst, presented a report on the status of the general fund/federal funds and a 2005 biennium outlook. (Exhibit 5) Mr. Johnson’s report was divided into the following sections: 1) 2005 biennium general fund outlook; 2) expenditure reductions under 17-7-140, MCA; and 3) 2007 biennium general fund outlook. He informed the LFC that combining the \$100 million in unavailable revenue with the \$50 million in reduced 2005 biennium revenues, and the \$85 million in statutory and policy driven issues, the general fund revenue growth rate in the 2007 biennium will need to be sufficient enough to increase revenues by \$235 million. Mr. Johnson stressed that these calculations are very preliminary and are based on a limited amount of information that is currently available. He said that national and state economic growth, federal policies, and world events could change this outlook either positively or negatively. Mr. Johnson responded to questions from LFC members.

Curt Nichols provided a response on behalf of the executive, stating they generally agree with Mr. Johnson’s report for the 2005 biennium. However, they strongly disagree with the predictions for the 2007 biennium, stating that they think the numbers are too extreme.

Representative Buzzas asked what OBPP predicted for the 2007 biennium and Mr. Nichols said, “somewhat less than \$100 million.”

Clayton Schenck stated that the figures in Terry Johnson’s report for the 2007 biennium general fund outlook are based on known facts and the figure of \$235 million is not an extreme number.

7. Capital Project Fund Potential Shortfall/Impacts (Tape 2B-521)

Roger Lloyd, Senior Fiscal Analyst, and Cathy Duncan, Associate Fiscal Analyst, presented a report on the capital project fund potential shortfall/impacts. (Exhibit 6) Their report contained information on the revenue, diversions, projects and appropriations, and fund balance. They presented the options being considered by the executive, as well as the legal issues and legislative considerations.

In response to a question by **Senator Zook** as to why the \$20,000 appropriated by the legislature in 1991 is still listed, Tom O’Connell, Administrator for the Architecture & Engineering Division, Department of Administration, said that this appropriation was held and not reverted in case the property adjacent to the capitol became available, then they would be able to put together an option for that property.

Bud Clinch, DNRC, distributed copies of information on the trust land acreage by grant, the trust administration account distribution, and the timber sale revenue. (Exhibit 7) He said that this information provides a detailed explanation as to what takes place with the trust.

On behalf of the LFC, **Senator Forrester** asked Mr. Lloyd and Mrs. Duncan to provide a follow-up report to the committee after they receive a legal opinion from the Legislative Services Division on the legal issues listed on page 6 of Exhibit 6.

8. Information Technology Management Update (Tape 3A-652)

Brian Wolf, Chief Information Officer, presented an update on the Montana Information Technology Act (SB131). (Exhibit 8) Mr. Wolf responded to questions from committee members. **Senator Laible** asked for the percentage of completion of the projects and amount of

the IT budget expended to this point. Mr. Wolf said he would provide this information in his report to the LFC in March.

9. District Courts Statewide Assumption: Project Fiscal Update (Tape 3B-335)

Taryn Purdy introduced this agenda item and provided a brief summary background. (Exhibit 9)

Jim Oppedahl, Judicial Branch, provided a brief overview of the district courts statewide assumption project for fiscal 2003 and told the committee that the state is 100 percent accountable for expenses in fiscal 2004. He presented several copies of the new Handbook on the Payment of State Costs for Montana's District Courts, July 2003, which includes written policies and procedures, a list of allowable charges, and sample forms. (Exhibit 10) Mr. Oppedahl explained that the handbook is an ongoing project and will be revised over time as issues come up.

Mr. Oppedahl updated the committee on the progress of the project to date and said approximately \$2.7 million of the total budget of \$7.5 million has been expended on the variable appropriations as of December 4, 2003, which is just short of the anticipated bills yet to be received. He said there is at least a 4 percent lag time in billing in addition to some outstanding claims and miscellaneous costs. Mr. Oppedahl said they estimate that they are currently \$510,000 in the hole for the biennium, based on anticipated bills and the status of the project.

Mr. Oppedahl informed the LFC about the following issues, which could have significant impacts: 1) outstanding costs of approximately \$840,000 for psychological evaluations for certain patients which have not been billed to either the county or the state for a number of years; 2) because of changes made by the 2003 Legislature in commitment hearings for developmental disabilities, those procedures now have the same stature as any criminal case with associated attorney and other miscellaneous costs; and 3) surcharges for automation. DPHHS contacted Mr. Oppedahl about submitting bills for the commitment hearings and he referred them to the attorney general's office for a legal opinion before taking any action.

Representative Lewis asked about the impacts on district courts because of a recent Supreme Court ruling making employees of the clerk of the court not subject to the state personnel laws. Therefore, they would be exempt from the pay plan and other things. Chief Justice Karla Gray addressed this question, stating that the order does not include district court employees at this time. However, the order does invite district courts to petition in the same manner.

Senator Laible asked about the timeframe for completing the project for surcharges on automation. Mr. Oppedahl provided a brief status report and said they can only evaluate it on a day-to-day basis. **Senator Laible** asked for a spreadsheet analysis at the March meeting and Mr. Oppedahl will provide that.

10. Other Reports (Tape 4A-116)

Taryn Purdy presented the budget amendments and operating plan changes. (Exhibits 11, 12, and 13) She informed the committee that no action was required as these reports are informational only with no issues identified by LFD staff. The required reports (Exhibit 14), status reports on other interim study committees (Exhibit 15), and an update on the Temporary Assistance for Needy Families (TANF) and Childcare by Pat Gervais (Exhibit 16) were included in the LFC notebook but were not formally presented.

Medicaid Managed Care Programs – LFC Review - Lois Steinbeck presented a report on the Medicaid managed care programs for review by the LFC as required by 53-6-116(5), MCA. (Exhibit 17) Her report included several options for consideration by the LFC. Chuck Hunter, Administrator for Child and Adult Health Resources, DPHHS, provided comments on behalf of the department, stating they agreed with Ms. Steinbeck's report.

Senator Zook asked why DPHHS adopted a totally different spending reduction plan than originally submitted. John Chappuis, Deputy Director, responded on behalf of DPHHS, stating that the plan they adopted was developed following the close of the last legislative session and the department believed it was an equivalent, yet better plan. **Senator Tester** asked if OBPP agreed with this and Mr. Chappuis said yes.

MOTION: Representative Buzzas moved that the LFC proceed with option 3, “It can revise or request advice to revise the managed care statutes that trigger LFC review.” **VOTE:** Motion carried unanimously.

Medicaid Redesign: Status – Lois Steinbeck presented a report on the status of the Medicaid redesign. (Exhibit 18) John Chappuis provided comments on behalf of DPHHS and distributed copies of a graph of components of Montana’s comprehensive Medicaid redesign. (Exhibit 19)

11. Committee Business (Tape 4B-523)

Mr. Schenck presented the items under committee business. (Exhibit 22) He relayed the discussion and recommendations by MAC regarding the committees’ involvement with the Information Technology Management. Mr. Schenck will ask Brian Wolf to meet with MAC prior to the next LFC meeting in an effort to make the best use of his and the committee’s time. **Representatives Lindeen** and **Brueggeman** were also asked to attend because of their IT background and knowledge.

Next LFC Meeting

The next meeting of the LFC will be held March 11 and 12, 2004.

Adjournment

MOTION: Senator Tester moved to adjourn. **VOTE:** Motion carried unanimously. Meeting adjourned at 3:30 p.m.

Representative Gary Forrester, Chairman

Cindy Amundson, Committee Secretary